



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
KING GEORGE COUNTY SERVICE AUTHORITY
FOR
FAIRVIEW BEACH WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0092134)
AND
DAHLGREN WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0026514)
AND
OAKLAND PARK WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0086789)
AND
PURKINS CORNER WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0070106)**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and King George County Service Authority regarding the Fairview Beach Wastewater Treatment Plant, Dahlgren Wastewater Treatment Plant, Oakland Park Wastewater Treatment Plant, and Purkins Corner Wastewater Treatment Plant for the purpose of resolving certain violations of the State Water Control Law, Regulations, and VPDES Permits No. VA0092134, VA0026514, VA0086789, and VA0070106. This Order supersedes and terminates the Consent Order issued by the Board to King George County Service Authority on September 20, 2018.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Authority" means the King George County Service Authority, an authority created pursuant to the Virginia Water and waste Authorities Act, Va. Code § 15.2-5100 et seq. King George County Service Authority is a "person" within the meaning of Va. Code § 62.1-44.3.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "CTC" means a Certificate to Construct. 9 VAC 25-790-10.
4. "CTO" means a Certificate to Operate. 9 VAC 25-790-10.
5. "Dahlgren WWTP" means the Dahlgren Wastewater Treatment Plant located at 16383 Dahlgren Road, King George, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of King George County.
6. "Dahlgren Permit" means VPDES Permit No. VA0026514 which was issued under the State Water Control Law and Regulations to the Authority.
7. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
8. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
9. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
10. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
11. "Fairview Beach WWTP" means the Fairview Beach Wastewater Treatment Plant located at 6268 Riverview Drive, King George, Virginia, which treats and discharges

treated sewage and other municipal wastes, for the residents and businesses of King George County.

12. "Fairview Permit" means VPDES Permit No. VA0092134 which was issued under the State Water Control Law and Regulations to the Authority.
13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
14. "Oakland Park WWTP" means the Oakland Park Wastewater Treatment Plant located at 1015 French Court, King George, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of King George County.
15. "Oakland Permit" means VPDES Permit No. VA0086789 which was issued under the State Water Control Law and Regulations to the Authority.
16. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
17. "PER" means Preliminary Engineering Report.
18. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
19. "Purkins Corner WWTP" means the Purkins Corner Wastewater Treatment Plant located at 11224 Henry Griffin Road, King George, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of King George County.
20. "Purkins Permit" means VPDES Permit No. VA0070106 which was issued under the State Water Control Law and Regulations to the Authority.
21. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
22. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
23. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
24. "Va. Code" means the Code of Virginia (1950), as amended.

25. "VAC" means the Virginia Administrative Code.
26. "VPDES" means Virginia Pollutant Discharge Elimination System.
27. "WWTP" means wastewater treatment plant.

SECTION C: Findings of Fact and Conclusions of Law

1. The Authority owns and operates the Fairview Beach WWTP, the Dahlgren WWTP, the Oakland Park WWTP, and the Purkins Corner WWTP.
2. On September 20, 2018, an Order was executed between DEQ and the Authority to resolve violations at the Fairview Beach WWTP, the Dahlgren WWTP, the Oakland Park WWTP, the Purkins Corner WWTP, and a fifth WWTP (Hopyard Farm WWTP) that is not subject to this Superseding Order. The Authority cooperated with DEQ in performing timely corrective actions to address the violations that were the subject of the 2018 Order.
3. As part of the 2018 Order, the Authority submitted a Pump Station PER to DEQ on November 13, 2019. All pump stations associated with the Hopyard Farm WWTP were found to be in compliance with Reliability Class I, while the PER identified a total of 31 pump stations that did not currently meet Reliability Class I requirements as follows:
 - a. six pump stations for Fairview Beach WWTP;
 - b. sixteen pump stations for Dahlgren WWTP;
 - c. three pump stations for Oakland Park WWTP; and
 - d. six pump stations for Purkins Corner WWTP.

The PER proposed for all necessary pump station upgrade work to be completed within approximately five years using a priority ranking system to place each pump station into a category based on the complexity of the work required. DEQ approved the Pump Station PER and sent an approval letter to the Authority on April 17, 2020. On August 12, 2020, DEQ and representatives of the Authority had a conference call to discuss progress updates.

4. 9 VAC 25-790-70 states that DEQ must establish a reliability classification for treatment works and pump stations associated with a treatment works (including those physically removed from the treatment works) which is based on the water quality and public health and welfare consequences of a component or system failure.

- a. Part I.C.5 of the Fairview Permit states that “[t]he permitted treatment works shall meet Reliability Class I.”
 - b. Part I.E.5 of the Dahlgren Permit states that “[t]he permitted treatment works shall meet Reliability Class I.”
 - c. Part I.D.5 of the Oakland Permit states that “[t]he permitted treatment works shall meet Reliability Class I.”
 - d. Part I.D.5 of the Purkins Permit states that “[t]he permitted treatment works shall meet Reliability Class I.”
5. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
6. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
7. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
8. The Department has issued no permit or certificates to the Authority for the Fairview Beach WWTP other than VPDES permit No. VA0092134.

The Department has issued no permits or certificates to the Authority for the Dahlgren WWTP other than VPDES Permit No. VA0026514.

The Department has issued no permits or certificates to the Authority for the Oakland Park WWTP other than VPDES Permit No. VA0086789.

The Department has issued no permits or certificates to the Authority for the Purkins Corner WWTP other than VPDES Permit No. VA0070106.
9. Based on the information in the PER and related correspondence between DEQ and representatives of the Authority, the Board concludes that the Authority has violated 9VAC25-31-50, Part I.C.5 of the Fairview Permit, Part I.E.5 of the Dahlgren Permit, Part I.D.5 of the Oakland Permit, and Part I.D.5 of the Purkins Permit, by discharging treated sewage and municipal wastes from the subject WWTPs while concurrently failing to comply with the conditions of the VPDES Permit applicable to each facility.
10. On August 12, 2020, February 12, 2021, and May 11, 2021, Department staff had conference calls with representatives of the Authority to discuss progress updates on the pump station upgrade work.

11. On April 30, 2021, the Authority submitted written notification to DEQ that Priority 1 Improvement work had been completed for the sewage pumping stations in accordance with the PER. DEQ acknowledges that all work required for the Priority 1 Pump Station projects have been completed and accepted as of April 30, 2021.
12. In order for the Authority to complete its return to compliance, DEQ staff and representatives of the Authority have agreed to a Schedule of Compliance for the Authority to complete the necessary upgrade work at its sewage pump stations to comply with Reliability Class I standards. The Schedule of Compliance is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the Authority, and the Authority agrees to perform the actions described in Appendix A of this Order. Both the Board and the Authority understand and agree that this Order supersedes and terminates the Consent Order issued by the Board to the Authority on September 20, 2018.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of the Authority for good cause shown by the Authority, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the Authority admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The Authority consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Authority declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be

construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by the Authority to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Authority shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. the Authority shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. the Authority shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Authority. Nevertheless, the Authority agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after the Authority has completed all of the requirements of the Order;
- b. the Authority petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the Authority.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Authority from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the Authority and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the Authority certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the Authority to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Authority.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, the Authority voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4th day of October, 2021.


Thomas A. Faha, Regional Director
Department of Environmental Quality

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King George County Service Authority voluntarily agrees to the issuance of this Order.

Date: 8/9/2021 By: [Signature], General Manager
(Person) (Title)
King George County Service Authority

Commonwealth of Virginia
City/County of King George

The foregoing document was signed and acknowledged before me this 9th day of August, 2021, by Jonathon Weakley who is General Manager of King George County Service Authority, on behalf of the Authority.

[Signature]

Notary Public

332216

Registration No.

My commission expires: August 31, 2021

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

King George County Service Authority Shall:

1. By October 10, 2021, and by April 10 and October 10 each calendar year for the duration of this Order, submit to DEQ semi-annual status updates reporting on the progress of the pump station upgrade work. The status update submissions shall include, at a minimum, the following information:
 - a. A summary of the upgrade work completed during the previous six months and planned for the following six month reporting period;
 - b. A statement identifying what pump stations were brought into compliance with Reliability Class I standards during the previous six months;
 - c. An updated pump station inventory table clearly identifying all pump stations that do not yet meet Reliability Class I standards; and
 - d. An explanation with available supporting information shall be provided for each pump station that the Authority has determined it is not the owner and has made a definitive decision to not pursue ownership, so that DEQ can proceed with contacting the owner for compliance discussions.
2. In accordance with 9VAC25-790-50, the Authority shall obtain a CTC/CTO from DEQ for any pump station upgrade work that is significant enough to require the involvement of a certified professional engineer, such as a change to the design flow of the pump station or a change in the pump type used.
3. All Authority pump stations associated with the Fairview Beach WWTP, Dahlgren WWTP, Oakland Park WWTP, and Purkins Corner WWTP shall meet Reliability Class I standards by January 1, 2027.
4. Unless otherwise specified in this Order, the Authority shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attention: Enforcement
13901 Crown Court
Woodbridge, VA 22193